IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

TAX APPEAL No. 700 of 2005
To
TAX APPEAL No. 701 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE D.A.MEHTA
HONOURABLE MS.JUSTICE H.N.DEVANI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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COMMISSIONER OF INCOME TAX - Appellant(s)

Versus

GUJARAT CUP COMPANY - Opponent(s)

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Appearance :
MRS M.M BHATT for Appellant(s) : 1,
None for Opponent(s) : 1,
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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA
and
HONOURABLE MS.JUSTICE H.N.DEVANI

Date : 05/12/2005

ORAL JUDGEMENT

(Per : HONOURABLE MR.JUSTICE D.A.MEHTA)

1.In both these appeals the appellant-revenue

has proposed the following question.

> “Whether the Appellate Tribunal is right in law and on facts in holding that the assessee is entitled to depreciation @ 100 % on the cost of Gas cylinders, when the Assessing Officer had observed that excessive purchase price has been shown whereupon excessive depreciation was claimed and that the transaction was only a paper arrangement to reduce real tax liability ?”

2. Heard Mrs. M.M.Bhat, the learned Standing Counsel for the appellant. She has reiterated the findings recorded by the Assessing Officer.

3. As against that, the Tribunal in its impugned order dated 14-5-2004 has confirmed the findings recorded by Commissioner (Appeals). It has been found that the transaction was a genuine transaction and the parties had acted on the transaction. The Seller has paid substantial tax on

capital gains towards sale of gas cylinders. The rent paid and claimed as a deduction has been allowed by the Assessing Officer. That Revenue has failed to submit any contrary material or evidence so as to dislodge the findings of facts recorded by Commissioner of Appeals.

4. In the circumstances, it is apparent that both the appellate authorities have revorded findings of facts after appreciating the evidence on record. Hence, in absence of any substantial question of law, the appeals are dismissed.

(D.A.MEHTA, J.) (H.N.DEVANI, J.)

*mithabhai